



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2491

DATE SCANNED 2-15-12

SCANNER NO. 2

SCAN OPERATOR IMP

12092680073



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2011 SEP -1 A 9 09  
August 31, 2011

MEMORANDUM

**SENSITIVE**

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

FROM: Patricia Cannona *PC*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

BY: Jodi Winship/Sari Pickeral/Ian Wandner *JP*  
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2011 July Quarterly Report for the  
Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to file the 2011 July Quarterly Report in accordance with 2 U.S.C. 434(a). The July Quarterly Report was due on July 15, 2011.

The committees listed in the attached RTB Circulation Report failed to file the report. In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

**Recommendation**

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

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8/31/2011 4:11 PM

Federal Election Commission  
Reason to Believe Circulation Report  
2011 JULY QUARTERLY Not Election Sensitive 07/15/2011 H\_S\_P

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2491	C00493742	BYRON GEORGIU FOR SENATE	GEORGIU, BYRON	MATTHEW DICKSON	\$1,926,880	0	7/22/2011	7	\$833,784	\$5,800

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Reason To Believe Recommendation - 2011 )  
July Quarterly Report for the )  
Administrative Fine Program: )  
BYRON GEORGIOU FOR SENATE, and ) AF# 2491  
MATTHEW DICKSON as treasurer; )

CERTIFICATION

I, Shelley E. Garr, Deputy Secretary of the Federal Election Commission, do hereby certify that on September 02, 2011 the Commission took the following actions on the Reason To Believe Recommendation - 2011 July Quarterly Report for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated August 31, 2011, on the following committees:

AF#2491 Decided by a vote of 6-0 to: (1) find reason to believe that BYRON GEORGIOU FOR SENATE, and MATTHEW DICKSON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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Federal Election Commission  
Certification for Administrative Fines  
September 02, 2011

Page 2

12092680077

Attest:

September 6, 2011  
Date

Shelley E. Garr  
Shelley E. Garr  
Deputy Secretary of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 6, 2011

Matthew Dickson, in official capacity as Treasurer  
Byron Georgiou for Senate  
P.O. Box 7420  
Las Vegas, NV 89125

C00493742  
AF#: 2491

Dear Mr. Dickson:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a July Quarterly Report of Receipts and Disbursements every calendar year. This report, covering the period through June 30th, shall be filed no later than July 15th. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on July 22, 2011, 7 days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. 434(a). 2 U.S.C. 437g(a)(4). On September 2, 2011, the FEC found that there is reason to believe ("RTB") that Byron Georgiou for Senate and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before July 15<sup>th</sup>. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$5,800. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$5,800 is due within forty (40) days of the finding, or by October 12, 2011, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$833,784  
Number of Days Late: 7  
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the

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Commission's RTB finding, or October 12, 2011. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Byron Georgiou for Senate and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

## **3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 CFR § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickerall in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Cynthia L. Bauerly  
Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$5,800 for the 2011 July Quarterly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by October 12, 2011. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Byron Georgiou for Senate

FEC ID#: C00493742

AF#: 2491

PAYMENT DUE DATE: October 12, 2011

PAYMENT AMOUNT DUE: \$5,800

**Byron Georgiou for Senate (C00493742)**  
**2747 Paradise Road, Unit 2204, Las Vegas, NV 89109**  
**(702) 731-2012**

RECEIVED  
2011 OCT 12 AM 11:35  
FEC MAIL CENTER

October 10, 2011

Cynthia L. Bauerly, Chair  
Federal Election Commission  
Office of Administrative Review  
999 E Street  
Washington, DC 20463

RE: AF#: 2491

Dear Chair Bauerly,

This letter is in response to your correspondence dated September 6, 2011 asserting that the above-referenced committee failed to file the July Quarterly Report of Receipts and Disbursements in a timely manner.

The Committee respectfully wishes to challenge the "Reason to Believe" finding of the Commission in this matter. It is our assertion, based on the evidence; the report was mailed on time on July 15, 2011, in a manner proscribed by the Commission, with the Office of Public Records of the United States Senate using United States Postal Service Priority Mail with Delivery Confirmation.

As detailed in the attached Declaration, the Committee believes it followed the specific instructions of the Commission in using the Priority Mail service provided by the United States Postal Service and purchased Delivery Confirmation Service. This is evidenced by a Track & Confirm electronic mail message from the Postal Service providing tracking and delivery information.

It appears that during or after the security inspection of the Priority Mail package at the United States Capitol, a dark label was placed over the Delivery Confirmation section of the USPS mailing label, obscuring the Delivery Confirmation service from view. Apparently, this caused the individual at the Office of Public Records to not check the "Delivery Confirmation of Signature Confirmation Label" box on the cover sheet detailing the manner in which the report was received.

The Committee sincerely appreciates your and the Commission's attention to detail in matters of this nature, and endeavors to file accurate and timely reports in a manner

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compliant with the applicable laws and regulations. It is unfortunate that the United States Senate chooses to require paper reporting, as the use of electronic filing would greatly simplify this entire process.

However, until such electronic filing is available, our Committee will file reports using USPS Express Mail in the future to eliminate any potential future confusion over the Delivery Confirmation service associated with Priority Mail.

We appreciate your consideration of the facts presented herein and in the attached documents, and anticipate based on this information you will be able to vacate the prior ruling, abate the associated monetary penalty, and determine that no further action in this matter is warranted.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew J. Dickson', with a long horizontal line extending to the right.

Matthew J. Dickson, Treasurer

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## Filing on Paper

- **No Extensions**
  - Filing dates not extended for weekends or holidays.
  - Must be received on business day preceding filing date.
- **Registered vs. Overnight Mail**
  - If filing using USPS registered mail, keep receipt.
  - “Overnight Mail” means express or priority mail with delivery confirmation or overnight service with on-line tracking system. Same terms as certified/registered mail. (Keep receipt)

2011 FEC Information Division

### C. Other Reporting Considerations for Paper Filers

1. **Statute Prohibits Extensions** (Applicable to Paper and Electronic Filers).
2. **Weekends and Holidays**  
Filing dates not extended for weekends or holidays. Must be received on business day preceding filing date.
3. **Registered vs. Overnight Mail**
  - a) If filing using USPS registered mail, keep receipt.
  - b) “Overnight Mail” means express or priority mail with a delivery confirmation or an overnight service with an on-line tracking system. File using same terms as certified/registered mail. (Keep receipt.)

EXHIBIT B

Fwd USPS Shipment Info for 0496 9010 1650 5408 4064 2nd Qtr 2011  
From: Matthew J. Dickson  
Sent: Thursday, July 21, 2011 12:31 PM  
To: Kelly Lee  
Subject: Fwd: USPS Shipment Info for 0496 9010 1650 5408 4064

FYI for files on proof of mailing and delivery for the 2Q report.

----- Original Message -----

Subject: USPS Shipment Info for 0496 9010 1650 5408 4064  
From: "U.S. Postal Service" <U.S.\_Postal\_Service@usps.com>  
To: mdickson@ByronGeorgiou.com  
CC:

This is a post-only message. Please do not respond.

Matthew Dickson has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 0496 9010 1650 5408 4064

Service Type: Priority Mail Delivery Confirmation

Shipment Activity	Location	Date & Time
Delivered 10:37am	WASHINGTON DC 20510	07/20/11
Sorting Complete 10:14am	WASHINGTON DC 20022	07/20/11
Arrival at Unit 9:10am	WASHINGTON DC 20022	07/20/11
Acceptance 1:22pm	DENVER CO 80202	07/15/11

Reminder: Track & Confirm by email

Date of email request: 07/17/11

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at <http://www.usps.com/shipping/trackandconfirm.htm>

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at <http://www.usps.com/shipping/trackandconfirmfaqs.htm>



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Via First Class Mail

October 14, 2011

Matthew Dickson, in his official capacity as Treasurer  
Byron Georgiou for Senate  
2747 Paradise Road, Unit 2204  
Las Vegas, NV 89109

C00493742  
AF#: 2491

Dear Mr. Dickson:

On October 12, 2011, the Commission received your written response ("challenge") which is being reviewed by the Office of Administrative Review. If you have any questions regarding your challenge, please contact this Office on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,

A handwritten signature in black ink, appearing to read "Dayna C. Brown". The signature is fluid and cursive.

Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review

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**FEC OFFICE OF  
ADMIN REVIEW**

2011 OCT 14 P 1:23

Date: October 14, 2011

**REFERRAL TO OFFICE OF ADMINISTRATIVE REVIEW  
CHALLENGE RECEIVED**

AF#: 2491

Committee Name: Byron Georgiou for Senate

Committee ID#: C00493742

Committee Address (if different than in RTB letter): N/A

Treasurer Name (if different than in RTB finding): N/A

**Attachments:**

Copy of RTB Circulation Report, dated August 31, 2011 and RTB Certification,  
dated September 6, 2011 (Y/N): Y

Attachment #: 1

Proof of Delivery (to be forwarded at later date if not yet received) (Y/N): Y

Attachment #: 2

Other Relevant Telecoms (Y/N): N

Attachment #: N/A

Original Correspondence Received by RAD in Response to RTB Letter (Y/N): N

Attachment #: N/A

RAD Staff Declaration (Y/N): Y

-2011 July Quarterly Report Prior Notice, dated June 21, 2011.

-RTB Letter, dated September 6, 2011.

Attachment #: 4

Other RAD Information: (Y/N): N

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Date: 09/13/2011

SARI PICKERALL:

The following is in response to your 09/13/2011 request for delivery information on your Express Mail(R) item number EQ82 6647 607U S. The delivery record shows that this item was delivered on 09/09/2011 at 10:36 AM in LAS VEGAS, NV 89109 to L THOMAS. The scanned image of the recipient information is provided below.

Signature of Recipient:

*L Thomas*  
*L Thomas*

Address of Recipient:

*2747 AMODELLE*

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

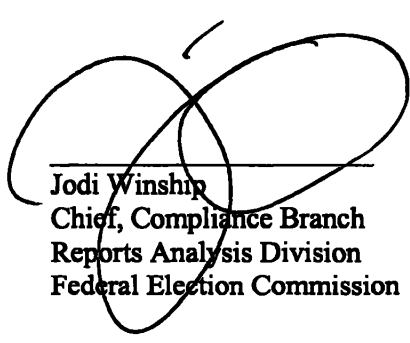
United States Postal Service

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## DECLARATION OF JODI WINSHIP

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Byron Georgiou for Senate:
  - A) Prior Notice, dated June 21, 2011 referencing the 2011 July Quarterly Report (sent via electronic mail to: info@byrongeorgiou.com);
  - B) Reason-to-Believe Letter, dated September 6, 2011, referencing the 2011 July Quarterly Report.
3. I hereby certify that I have searched the Commission's public records and find that Byron Georgiou for Senate filed the 2011 July Quarterly Report with the Commission on July 22, 2011.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 14<sup>th</sup> day of October, 2011.



Jodi Winship  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission



# JULY QUARTERLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

CONGRESSIONAL COMMITTEES

June 21, 2011

## CURRENT REPORT DUE

REPORT	CLOSE OF BOOKS <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
July Quarterly	06/30/11	07/15/11	07/15/11

## REPORTING SCHEDULE FOR REMAINDER OF 2011

REPORT	CLOSE OF BOOKS <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
October Quarterly	09/30/11	10/15/11	10/15/11 <sup>2</sup>
Year-End	12/31/11	01/31/12	01/31/12

[Click here for Supplemental Filing Information](#)

<sup>1</sup>A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

<sup>2</sup> Notice that this filing deadline falls on a weekend. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before the Commission's (or for Senate candidates, the Secretary of Senate Public Records Office's) close of business on the last business day before the deadline.

## 2011 SUPPLEMENTAL FILING INFORMATION CONGRESSIONAL COMMITTEES

**PLEASE NOTE:** The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

### WHO MUST FILE

Principal campaign committees of congressional candidates <sup>1</sup> (including unopposed candidates and candidates whose names do not appear on the ballot) must file Quarterly Reports in 2011. <sup>2</sup> See 11 CFR 104.5(a). Before a committee can stop filing with the FEC, it must file a termination report with the Commission. See 11 CFR 102.3. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

### METHODS OF FILING REPORTS

#### Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. See 11 CFR 104.5(e).

- Web Page: Electronic Filing Page
- Campaign Guide for Congressional Candidates and Committees (Candidate Guide), pp. 82-84 [PDF]

#### Paper Filing - Meeting the Filing Deadline

Paper Report filing options -- Registered, Certified or Overnight or First Class Mail.

See 11 CFR 104.5(e).

- Web Page: Link to Paper Forms (for downloading and printing)
- Candidate Guide, p. 81 [PDF]

### 2011 REPORTING SCHEDULE

- Web Page: 2011 Reporting Dates Page
- The Record: January 2011 issue [PDF]
- Candidate Guide, p. 79 [PDF]

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<sup>1</sup> Generally, an individual becomes a candidate for federal office (and thus triggers registration and reporting obligations) when his or her campaign exceeds \$5,000 in either contributions received or expenditures made. If the campaign has not crossed the \$5,000 threshold, it is not required to file reports. See 11 CFR 100.3(a).

<sup>2</sup> If a candidate has more than one authorized committee, the principal campaign committee must also file a consolidated report on Form 3Z [PDF].

## COMPLIANCE

### Treasurer Responsibility

Committee Treasurers are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. See 11 CFR 104.14(d).

- Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings [PDF]
- Candidate Guide, p. 7 [PDF]

### Administrative Fine Program

Political committees and their treasurers who fail to file their reports on time may be subject to civil money penalties up to \$17,600 (or more for repeat late- and non-filers).<sup>3</sup>

See 11 CFR 111.43(b). See generally, 11 CFR 111.30.

- Web Page: Administrative Fine Program
- Candidate Guide, pp. 81-82 [PDF]

## DISCLOSURE OF LOBBYIST BUNDLING ACTIVITY

Campaign committees must file FEC Form 3L [PDF] if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$16,200 during the applicable reporting period (see page 1 of this notice). See 11 CFR 104.22 and 11 CFR 110.17(e).

## IMPORTANT FILING INFORMATION - PAPER FILERS

In response to the 2001 anthrax threat, the U.S. Postal Service is irradiating mail directed to many federal agencies, including the FEC and the Secretary of the Senate.<sup>4</sup> This process has not only delayed mail delivery, it has also damaged and in some cases destroyed pieces of mail. As a result, committees that file reports with the FEC may want to consider submitting their reports by some means other than U.S. mail. Alternative methods include electronic filing, overnight mail or delivery service, and hand delivery.

<sup>3</sup> Penalties for late- or non-filing of 48-hour notices are based on the amount of contributions received not timely disclosed. As a result, these penalties may exceed \$17,600, even for first-time violations. See 11 CFR 111.44.

<sup>4</sup> Senate committees should contact the Secretary of the Senate at (202) 224-0322 for more information on filing reports via US mail.

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FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2011 NOV 22 P 2:00

**SENSITIVE**

November 22, 2011

**MEMORANDUM**

To: The Commission

Through: Alec Palmer *AP*  
Staff Director

From: Patricia Carmona *PC*  
Chief Compliance Officer

Dayna C. Brown *DCB*  
Reviewing Officer  
Office of Administrative Review

Subject: Reviewing Officer Recommendation in AF# 2491 – Byron Georgiou for Senate and Matthew Dickson, in his official capacity as Treasurer (C00493742)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation.

After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Please note that at issue in this case is the method by which the respondents mailed their 2011 July Quarterly Report. The copy of the envelope used to mail the report, when scanned, obscures relevant delivery information. In their response, the Senate Office of Public Records provided a legible copy of the envelope, which is included in the challenge. It is very likely, however, that when scanned for electronic circulation to the Commission, the envelope will once again be rendered illegible. Therefore, a separate stand-alone pdf of the envelope will be placed in the electronic Reviewing Officer Recommendation folder for this case.

Attachment

12092680093



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 22, 2011

**REVIEWING OFFICER RECOMMENDATION  
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 2491– Byron Georgiou for Senate and Matthew Dickson, in his official capacity as  
Treasurer (C00493742)

**Summary of Recommendation**

Take no further action that the respondents violated 2 U.S.C. § 434(a) and close the file.

**Reason-to-Believe Background**

On September 2, 2011, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2011 July Quarterly Report and made a preliminary determination that the civil money penalty was \$5,800 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on September 6, 2011 to notify them of the Commission's RTB finding and civil money penalty.

**Legal Requirements**

The Federal Election Campaign Act ("Act") states that the treasurer of a principal campaign committee of a candidate shall file a report for the period ending June 30 no later than July 15. 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(a)(1)(i). All reports required to be filed by the principal campaign committee of a candidate for the office of U.S. Senator shall be filed with the Secretary of the Senate. If the report is sent by registered or certified mail, by Express or Priority Mail with delivery confirmation or by overnight delivery service with an online tracking system, and scheduled for next business day delivery, it must be postmarked, or deposited with the mailing service, no later than the July 15 to be timely filed. 2 U.S.C. § 434(r)(5) and 11 C.F.R. §§ 100.19(b) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

**Respondents' Challenge**

On October 12, 2011, the Commission received the written response ("challenge") from the Treasurer challenging the RTB finding based on evidence that the report was mailed timely on its due date, via United States Postal Service ("USPS") Priority Mail with Delivery Confirmation. Included with the challenge is a signed declaration from the Treasurer; a copy of "Filing on Paper" provided to the Treasurer during a Commission Seminar; and a copy of an email from the U.S. Postal Service indicating that Label Number 0496 9010 1650 5408 4064 was received by the Postal Service on July 15, 2011 and sent via Priority Mail Delivery Confirmation.

## Analysis

At the time of RTB, Commission records indicated that the respondents' 2011 July Quarterly Report was sent via Priority Mail on July 15, 2011 and received by the Senate Office of Public Records ("OPR") on July 22, 2011; however, the envelope processing page completed by the Senate OPR did not indicate that the report was sent with Delivery Confirmation. Additionally, the Commission's copy of the envelope used to mail the report appeared to have a black label which obscured information pertaining to the postmark date, method of delivery and any tracking information. Therefore, additional information was requested from the Office of the Secretary of the Senate OPR, as the point of entry for reports filed by Senate committees.

The Superintendent of the OPR states in her response, that the report's original mailing label was darkened dramatically during the security screening process and rendered completely black during the scanning process. Her office reviewed the original envelope and determined that the report was, in fact, mailed on July 15, 2011 via Priority Mail with Delivery Confirmation. In addition to providing a copy of the Priority Mail label with visible shipping details, a revised envelope processing page is provided, disclosing that the report was mailed with Delivery Confirmation. Commission records have subsequently been updated to reflect these corrections.

Given the Senate OPR's correction indicating that the July Quarterly was mailed timely on July 15 via Priority Mail with Delivery Confirmation, a "safe harbor" delivery method outlined in 2 U.S.C. § 434(a)(5), the Commission's RTB finding was based on a factual error. 11 C.F.R. § 111.35(b)(1). The Reviewing Officer, therefore, recommends that the Commission take no further action and close the file.

## OAR Recommendations

- (1) Take no further action in AF# 2491 that Byron Georgiou for Senate and Matthew Dickson, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and close the file; and
- (2) Send the appropriate letter.

Reviewing Officer: Dayna C. Brown

## Attachments

- Attachment 1 – Challenge Received from Respondents
- Attachment 2 –
- Attachment 3 – Declaration from RAD
- Attachment 4 – Declaration from OAR

**DECLARATION OF DAYNA C. BROWN**

1. I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
2. The 2011 July Quarterly Report is due July 15, 2011. Senate principal campaign committees must file reports with the Secretary of the Senate. If the report is sent by certified or registered mail, Priority or Express Mail with delivery confirmation, or by overnight delivery service with an on-line tracking system, it must be postmarked by the close of business on July 15 to be timely filed.
3. It is the practice of the Office of Public Records, Secretary of the Senate to date stamp each report as it is received and complete an envelope processing page disclosing the method used to file the report as well as either the date of receipt or postmark.
4. I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of Page 1 of the Summary Page and the Senate Office of Public Records envelope processing page for the 2011 July Quarterly Report filed by Byron Georgiou for Senate and Matthew J. Dickson, in his official capacity as Treasurer. According to the Commission's records, the report covers the period from April 1 through June 30, was sent on July 15 via USPS Priority Mail with Delivery Confirmation, and received on July 22, 2011.
5. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington on the 22<sup>nd</sup> of November, 2011.



Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review  
Federal Election Commission

12092680096



**FEC  
FORM 3**

**REPORT OF RECEIPTS  
AND DISBURSEMENTS**

For An Authorized Committee

SECRETARY OF THE SENATE

11 JUL 22 AM 10:17

Office Use Only

1. NAME OF COMMITTEE (in full) **USE FEC MAILING LABEL OR TYPE OR PRINT** Example: If typing, type over the lines

Byron Georgiou for Senate

ADDRESS (number and street)

PO Box 7420



Check if different than previously reported. (ACC)

Las Vegas

NV

89125

2. FEC IDENTIFICATION NUMBER

CITY

STATE

ZIP CODE

STATE DISTRICT

C00493742

3. IS THIS REPORT

☒

NEW (N)

OR

☐

AMENDED (A)

NY

00

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:



April 15 Quarterly Report (Q1)



July 15 Quarterly Report (Q2)



October 15 Quarterly Report (Q3)



January 31 Year-End Report (YE)



Termination Report (TER)

(b) 12-Day PRE-Election Report for the:



Primary (12P)



General (12G)



Runoff (12R)



Convention (12C)



Special (12S)

Election on

in the State of

(c) 30-Day POST-Election Report for the:



General (30G)



Runoff (30R)



Special (30S)

Election on

in the State of

5. Covering Period

04

01

2011

through

06

30

2011

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Mr. Matthew J. Dickson

Signature of Treasurer

Electronically Signed by Matthew J. Dickson

Date

07

15

2011

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. 437g.

Office Use Only

**FEC FORM 3**  
(Revised 02/2003)

FE5AN018

12092680097

11020320013

NANCY ERICKSON  
SECRETARY

DANA K. MCCALLUM  
SUPERINTENDENT

HART SENATE OFFICE BUILDING  
SUITE 232  
WASHINGTON, DC 20510-7116  
PHONE: (202) 224-0322

# United States Senate

OFFICE OF THE SECRETARY

OFFICE OF PUBLIC RECORDS

THE PRECEDING DOCUMENT WAS:

HAND DELIVERED \_\_\_\_\_

Date of Receipt

USPS FIRST CLASS MAIL \_\_\_\_\_

Postmark

USPS REGISTERED/CERTIFIED \_\_\_\_\_

Postmark

USPS PRIORITY MAIL

07-15-11

Postmark

DELIVERY CONFIRMATION OR SIGNATURE CONFIRMATION LABEL ☒

USPS EXPRESS MAIL \_\_\_\_\_

Postmark

## OVERNIGHT DELIVERY SERVICE:

SHIPPING DATE

NEXT BUSINESS DAY DELIVERY

FEDERAL EXPRESS \_\_\_\_\_

☐

UPS \_\_\_\_\_

☐

DHL \_\_\_\_\_

☐

AIRBORNE EXPRESS \_\_\_\_\_

☐

RECEIVED FROM FEDERAL ELECTION COMMISSION \_\_\_\_\_

Date of Receipt

POSTMARK ILLEGIBLE ☐

NO POSTMARK ☐

FAX \_\_\_\_\_

Date of Receipt

OTHER \_\_\_\_\_

Date of Receipt or Postmark

PREPARER

RD

DATE PREPARED

07-22-11

12092680098

1100003000000



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

November 28, 2011

Matthew Dickson, in official capacity as Treasurer  
Byron Georgiou for Senate  
2747 Paradise Road Unit 2204  
Las Vegas, NV 89109

C00493742  
AF# 2491

Dear Mr. Dickson:

On September 2, 2011, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Byron Georgiou for Senate and you, in your official capacity as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to timely file the 2011 July Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$5,800 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination in this matter. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463. As a result of the anthrax threat in the Washington, DC area, US Postal Service mail delivery to federal agencies, including the Commission, has been interrupted. Until regular mail delivery resumes, you may also file your written response with the Commission Secretary via facsimile (202-208-3333) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review

Attachment

12092680099



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 15, 2011

MEMORANDUM

To: The Commission

Through: Alec Palmer  
Staff Director

From: Patricia Carmona  
Chief Compliance Officer

Dayna C. Brown *DCB*  
Reviewing Officer  
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 2491 – Byron Georgiou for Senate and Matthew Dickson, in his official capacity as Treasurer (C00493742)

On September 2, 2011, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2011 July Quarterly Report and also made a preliminary determination that the civil money penalty was \$5,800 based on the schedule of penalties at 11 C.F.R. § 111.43.

On October 12, 2011, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated November 22, 2011 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The respondents and the Senate Office of Public Records provided factual evidence that they timely filed their report via Priority Mail with Delivery Confirmation on July 15, 2011. Therefore, the Reviewing Officer recommended that the Commission take no further action and close the file because the RTB finding was based on a factual error.

Within 10 days of transmittal of the recommendation, the respondents may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). As of this date, a written response has not been received.

12092680100

### **OAR Recommendations**

- (1) Take no further action in AF# 2491 that Byron Georgiou for Senate and Matthew Dickson, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and close the file; and
- (2) Send the appropriate letter.

12092680101

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Final Determination Recommendation - ) AF 2491  
Byron Georgiou for Senate and Matthew )  
Dickson, in his official capacity as )  
Treasurer (C00493742) )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election  
Commission, do hereby certify that on January 12, 2012, the Commission  
decided by a vote of 6-0 to take the following actions in AF 2491:

1. Take no further action in AF# 2491 that Byron Georgiou for Senate and Matthew Dickson, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and close the file.
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and  
Weintraub voted affirmatively for the decision.

Attest:

January 12, 2012  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

12092680102



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 18, 2012

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Matthew Dickson, in official capacity as Treasurer  
Byron Georgiou for Senate  
2747 Paradise Road Unit 2204  
Las Vegas, NV 89109

C00493742  
AF# 2491

Dear Mr. Dickson:

On September 2, 2011, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Byron Georgiou for Senate and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) for failing to timely file the 2011 July Quarterly Report. By letter dated September 6, 2011, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$5,800 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On October 12, 2011, the Office of Administrative Review received the written response from you challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the challenge. Based on this review, the Reviewing Officer recommended that the Commission take no further action because both you and the Senate Office of Public Records provided factual evidence that the report was filed timely via Priority Mail with Delivery Confirmation on July 15, 2011. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on November 22, 2011.

On January 12, 2012, the Commission adopted the Reviewing Officer's recommendation to take no further action with respect to 2 U.S.C. § 434(a). A copy of the final determination memorandum is attached.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within 30 days from the date of the Commission's notification, this could occur at any time following certification of the Commission's vote.

12092680103

If you have any questions regarding this matter, please contact Dayna Brown on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Caroline C. Hunter". The signature is fluid and cursive, with a long horizontal stroke at the end.

Caroline C. Hunter  
Chair

Attachment

12092680104





FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2491

DATE SCANNED 2-15-12

SCANNER NO. 2

SCAN OPERATOR Imp

12092680105